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**SUPREME COURT. U. S.**

49,53,54  
Nos. 711, 720, 725

Office Supreme Court, U.S.

**FILED**

**MAR 17 1961**

**JAMES R. BROWNING, Clerk**

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**In the Supreme Court of the United States**

**OCTOBER TERM, 1960**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY  
COMPANY, ET AL., APPELLANTS**

**v.**

**ELVIN L. REDDISH, ET AL.**

**INTERSTATE COMMERCE COMMISSION, APPELLANT**

**v.**

**ELVIN L. REDDISH, ET AL.**

**ARKANSAS-BEST FREIGHT SYSTEM, INC., ET AL.,  
APPELLANTS**

**v.**

**ELVIN L. REDDISH, ET AL.**

**ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF ARKANSAS—FORT SMITH DIVISION**

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**MEMORANDUM FOR THE UNITED STATES**

**ARMONIALD COX,**

**Solicitor General,**

**Department of Justice, Washington 25, D.C.**

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# **In the Supreme Court of the United States**

OCTOBER TERM, 1960

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No. 714

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY  
COMPANY, ET AL., APPELLANTS**

v.

**ELVIN L. REDDISH, ET AL.**

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No. 723

**INTERSTATE COMMERCE COMMISSION, APPELLANT**

v.

**ELVIN L. REDDISH, ET AL.**

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No. 725

**ARKANSAS-BEST FREIGHT SYSTEM, INC., ET AL.,  
APPELLANTS**

v.

**ELVIN L. REDDISH, ET AL.**

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**ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF ARKANSAS—FORT SMITH DIVISION**

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## **MEMORANDUM FOR THE UNITED STATES**

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The above appeals are from the judgment of a three-judge district court which set aside orders of the Interstate Commerce Commission denying an application for a permit to operate as a contract car-

rier by motor. The court held (1) that § 209(b) of the Interstate Commerce Act, as amended in 1957, 49 U.S.C. 309(b), does not permit the "adequacy of existing service" test which the Commission applied in determining whether issuance of the requested permit will be consistent with the public interest, and (2) that under the amended section the Commission erred in treating as irrelevant the consideration that grant of the contract carrier application would enable the supporting shippers to obtain transportation service meeting their distinct needs at a materially lower cost than by utilizing the services of existing common carriers.

In the district court, the United States supported the plaintiff (appellee Elvin L. Reddish). For present purposes, it suffices to note that the appeals present questions, involving the proper construction of certain 1957 amendments to the Interstate Commerce Act, which are of public importance and should be determined by this Court. One of the questions presented is the same as the basic issue involved in *Interstate Commerce Commission v. J-T Transport Company, Inc.* and *U.S.A.C. Transport, Inc. v. J-T Transport Company, Inc.* (Nos. 563 and 564, this Term), in which the Court noted probable jurisdiction of the appeals on February 20, 1961. We therefore suggest that the Court should note probable jurisdiction of the present appeals.

Respectfully submitted.

ARCHIBALD COX,  
Solicitor General.

MARCH 1961.